

TESTIMONY OF ATTORNEY PETER GOSELIN  
TO THE LABOR AND PUBLIC EMPLOYEES COMMITTEE  
IN SUPPORT OF H.B. 5240, AN ACT REQUIRING DOUBLE DAMAGES  
BE AWARDED IN CIVIL ACTIONS TO COLLECT WAGES

Honorable Chairpersons and Members of the Committee:

My name is Peter Goselin. I am an attorney in private practice with more than sixteen years of experience litigating employment cases in Connecticut's state and federal courts. For the last five years, most of my legal practice has been devoted to representing employees in cases involving wage theft. I offer my remarks today in support of House Bill 5240, which would amend Connecticut General Statutes §31-72 to make an award of double damages mandatory in cases where an employee has proved that an employer has failed to pay all of the wages that the employee has earned.

"Wage theft" is a term that is being increasingly used to describe what happens an employee performs work and the employer fails or refuses to pay for that work. It can include the failure to pay the lawful minimum wage, failure to pay time and a half for overtime, or failure to pay any amount of wages that are due and owing. Although wage theft occurs in every industry and at every pay level, it has its most devastating effects among low wage workers.

For most of us, one of the most bedrock assumptions of our working lives is that after we have put in a week of work, we will receive a paycheck for the work we have performed. But for literally thousands of low wage workers in Connecticut that is simply not a reality. In the last five years I have personally represented several hundred employees in wage theft cases, and as a volunteer working with Connecticut Legal Services and New Haven Legal Assistance I can attest that I believe that wage theft deprives Connecticut workers of millions of dollars in wages every year. The offending employers include not only fly-by-night operations but established businesses whose owners have determined that they can cut their

bottom line by violating Connecticut wage laws. It is not exaggeration or hyperbole to say that these employers are directly profiting from the exploitation of some of the most vulnerable members of Connecticut's workforce. It is also important to note that when a company violates Connecticut's wage laws and gets away with it, it lowers the standards for everyone. Other companies providing the same goods or services are left with a choice: should they cut their own employees' wages below the legal limits or should they cut their profits in order to compete with a company willing to violate the law.

The arrogance with which some of these employers have violated Connecticut law is astonishing. In the last five years I have represented dishwashers who worked 12 and 14 hour days but were paid less than the minimum wage and no overtime; masons and carpenters working sixty hour weeks with no overtime pay; painters whose employer did not pay them for the last two to three months that they worked; domestic workers and personal care attendants who were required to work 80 hours a week or who were on call 24 hours a day but who received as little as \$2.00 to \$3.00 an hour for their work, and day laborers who might put in one or two weeks of back-breaking physical labor only to have the employer call the police on them when they asked to be paid the wages they were owed.

I have spoken on the problem of wage theft to community organizations and legal groups around the state, and people are endlessly surprised that this state of affairs is allowed to exist. Plainly, the law as it stands is not protecting these workers.

The courts have interpreted our wage collection statute, §31-72, as requiring payment of wages owed when a worker brings a claim, and only awarding double damages when the worker can show that the employer acted with "bad faith, arbitrariness or unreasonableness." Because the burden is on the worker to make this showing, there is a danger that an employer who is sued for wage theft can literally treat the employee's wages as if they were

an interest-free business loan. That is to say, the employer gets the benefit of the money that he stole from the worker for months or maybe years, and even if a claim is brought and he eventually has to pay the wages owed, he may suffer no penalty whatsoever. But it's actually worse than that. Most lawsuits are, as a practical matter, resolved through settlement. So in many instances, the employer can settle a wage theft claim by offering to pay less than the total amount of wages owed. In other words, an employer who violates Connecticut wage laws may literally profit from being sued.

House Bill 5240's proposed revision of §31-72, making an award of double damages mandatory where the plaintiff has proved her claim of wage theft, would make Connecticut law consistent with the federal Fair Labor Standards Act, under which the courts have said that an award of double damages is the norm. The proposed revision would also enable an employer who can prove that it acted in good faith to limit the recovery to single damages. This changes would provide a genuine disincentive to employers to cheat their workers and would fairly compensate the workers when they are forced to bring legal claims merely to be paid the wages that the law says they are owed.

In the time that I have been representing clients in wage theft cases, I have seen just how hard people are willing to work when they are given a chance. Sadly, I have also seen just how low some people will go to exploit low wage workers and fatten their own purses. This legislation would help to ensure that the hard work of Connecticut employees is rewarded and that those who steal the fruits of that work are punished.

